

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL GALLOWAY,
aka "Washoe Mike,"

Defendant.

3:23-CR-027-ART-CSD

ORDER GRANTING

**Government's Unopposed Motion for
Entry of the Proposed Preliminary Order
of Forfeiture**

The United States of America respectfully moves this Court to enter the proposed Preliminary Order of Forfeiture¹ based on Michael Galloway's, aka "Washoe Mike," plea of guilty to Counts One through Four of the Four-Count Criminal Indictment.²

The grounds for entering the Preliminary Order of Forfeiture are as follows. First, the government provided proper notice to Galloway with the forfeiture allegations in the Criminal Indictment.³ Second, as soon as practical after the guilty plea, this court should enter the Preliminary Order of Forfeiture. Third, when the United States establishes the requisite nexus between the specific forfeited assets and the offenses to which the defendant plead guilty, the district court enters the order forfeiting the specific assets. Fourth, Galloway has not opposed this Motion. If Galloway requests a hearing, this Court must provide it.

¹ Exhibit 1-Proposed Preliminary Order of Forfeiture.

² Criminal Indictment (Indictment), ECF No. 16.

³ Indictment, ECF No. 16.

1 This motion is made and is based on the pleadings and papers on file herein and the
2 following Memorandum of Points and Authorities.

3 MEMORANDUM OF POINTS AND AUTHORITIES

4 I. STATEMENT OF CASE

5 On July 8, 2024, Galloway pled guilty to Counts One through Four of a Four-Count
6 Criminal Indictment charging him in Counts One through Three with distribution of a
7 controlled substance in violation of 21 U.S.C. § 841(a)(1) and in Count Four with
8 possession of a controlled substance with intent to distribute in violation of 21 U.S.C. §
9 841(a)(1) and with forfeiture allegations under 18 U.S.C. § 924(d)(1) with 28 U.S.C. §
10 2461(c); 21 U.S.C. § 853(a)(2); 21 U.S.C. § 881(a)(11) with 28 U.S.C. § 2461(c); and 18
11 U.S.C. § 924(d)(1), (2)(C), and (3)(B) with 28 U.S.C. § 2461(c).

12 On or about June 29, 2023, Galloway knowingly and intentionally possessed with
13 the intent to distribute a mixture and substance containing a detectable amount of
14 methamphetamine, a Schedule II controlled substance, in violation of 21 U.S.C. §§
15 841(a)(1) and (b)(1)(C). On that same day, police executed a search warrant at Galloway's
16 address. Located among or near the drug paraphernalia were the following firearms: Smith
17 & Wesson Revolver model 36, S/N AEY2890; Colt Mark IV .45 cal S/N SS16216E; Smith
18 & Wesson .38 SPL S/N DBE3051; MFT Rifle with Scope S/N EPG16V2; Beretta 22 mm
19 S/N P86953; Winchester .44 Lever action rifle S/N 5467454; Norinco Black rifle 7.62 with
20 scope S/N 11519011; Browning 12 gauge shotgun S/N 83018; and UZI Semi auto Model
21 A, 9mm Para IMI-ISRAEL S/N SA18133. The firearms were used by Galloway to
22 facilitate drug transactions.

23 II. ARGUMENT

24 A. The Government Provided the Required Notice of Forfeiture in the 25 Indictment.

26 Rule 32.2 of the Federal Rules of Criminal Procedure outlines the criminal forfeiture
27 procedures as related to criminal statutes. The indictment or information must include
28 forfeiture allegations according to the applicable criminal statute as the constitutionally

1 required notice to the defendant that the government intends to seek forfeiture as part of the
 2 sentence. Fed. R. Crim. P. 32.2(a).⁴ The government provided the constitutionally required
 3 notice in the Criminal Indictment with forfeiture allegations for the specific property.⁵

4 **B. As Soon as Practical After the Guilty Plea, this Court Should Enter the**
 5 **Preliminary Order of Forfeiture.**

6 Under Fed. R. Crim. P. 32.2(b)(1)(A), “As soon as practical... after a plea of guilty
 7 ... is accepted, on any count in an indictment ... regarding which criminal forfeiture is
 8 sought, the court must determine what property is subject to forfeiture under the applicable
 9 statute.”⁶ “If the government seeks forfeiture of specific property, the court must determine
 10 whether the government has established the requisite nexus between the property and the
 11 offense.”⁷ Requisite nexus is shown when “the evidence established ... that the [property]
 12 was used in carrying out [the defendant’s] offenses.”⁸

13 The government seeks to forfeit the property found in the possession of Galloway
 14 when the police executed a search warrant at Galloway’s address. The property was found
 15 located among or near the drug paraphernalia. “If the court finds that property is subject to
 16 forfeiture, it must promptly enter a preliminary order of forfeiture... directing the forfeiture
 17 of specific property... if the government has met the statutory criteria.”⁹ “The court’s
 18 determination may be based on evidence already in the record, including any written plea

19 ⁴ See also *United States v. Lo*, 839 F.3d 777, 790-91 (9th Cir. 2016) (explaining a forfeiture
 20 allegation provides notice to support a forfeiture order).

21 ⁵ Indictment, ECF No. 16.

22 ⁶ Fed. R. Crim. P. 32.2(b)(1)(A) (ellipses added); See also *United States v. Newman*, 659 F.3d
 1235, 1242 (9th Cir. 2011).

23 ⁷ Fed. R. Crim. P. 32.2(b)(1)(A); *United States v. Mancuso*, 718 F.3d 780, 799 (9th Cir. 2013)
 (“The government ... must prove, by a preponderance of the evidence, a nexus between the
 property and the crime.”) (quoting *United States v. Liquidators of European Fed. Credit Bank*,
 630 F.3d 1139, 1149 (9th Cir. 2011)).

24 ⁸ *United States v. Green*, 516 F. App’x 113, 135 (3d Cir. 2013) (brackets and ellipsis added); see
 also *United States v. Shanholtzer*, 492 F. App’x 798, 799 (9th Cir. 2012) (stating that evidence
 25 that shows the property was used to violate the crime meets the requisite nexus
 requirement); *United States v. Garcia-Guizar*, 160 F.3d 511, 517-18 (9th Cir. 1998) (citations
 26 and quotation marks omitted) (holding “the government need prove by only preponderance
 of the evidence, and not beyond a reasonable doubt, that property should be criminally
 27 forfeited. This burden of proof is constitutional because the criminal forfeiture provision
 does not itself describe a separate offense but is merely an additional penalty for an offense
 28 that must be proved beyond a reasonable doubt.”).

⁹ Fed. R. Crim. P. 32.2(b)(2)(A) (ellipses added).

1 agreement, and on any additional evidence or information submitted by the parties and
2 accepted by the court as relevant and reliable.”¹⁰

3 The Preliminary Order of Forfeiture must be entered as soon as possible to meet the
4 requirements under Fed. R. Crim. P. 32.2. “Unless doing so is impractical, the court must
5 enter the preliminary order sufficiently in advance of sentencing to allow the parties to
6 suggest revisions or modifications before the order becomes final as to the defendant under
7 Rule 32.2(b)(4).”¹¹ The government requests entry of the Preliminary Order of Forfeiture,
8 forfeiting specific property, allowing Galloway, if he wishes, to suggest revisions before he is
9 sentenced.

10 **C. The property in the proposed Preliminary Order of Forfeiture Should be**
11 **Forfeited.**

12 If the Court determines the government has demonstrated the requisite nexus
13 between the property and the violation, under Fed. R. Crim. P. 32.2(b)(1), then the property
14 in the proposed Preliminary Order of Forfeiture should be forfeited.

15 The property in the proposed Preliminary Order of Forfeiture is (1) any firearm or
16 ammunition involved in or used in any violation of any other criminal law of the United
17 States, 21 U.S.C. § 841(a)(1); (2) any firearm or ammunition intended to be used in any
18 offense punishable under the Controlled Substances Act, 21 U.S.C. § 841(a)(1); (3) any
19 property used, or intended to be used, in any manner or part, to commit, or to facilitate the
20 commission of 21 U.S.C. § 841(a)(1); and (4) any firearm used or intended to be used to
21 facilitate the transportation, sale, receipt, possession, or concealment of property described
22 in 21 U.S.C. § 881(a)(1) and 881(a)(2), in violation of 21 U.S.C. § 841(a)(1) and any
23 proceeds traceable to such property and is subject to forfeiture under 18 U.S.C. § 924(d)(1)
24 with 28 U.S.C. § 2461(c); 18 U.S.C. § 924(d)(1), (2)(C), and (3)(B) with 28 U.S.C. § 2461(c);
25 21 U.S.C. § 853(a)(2); and 21 U.S.C. § 881(a)(11) with 28 U.S.C. § 2461(c).

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28 ¹⁰ Fed. R. Crim. P. 32.2(b)(1)(B); *Newman*, 659 F.3d at 1244-45.

¹¹ Fed. R. Crim. P. 32.2(b)(2)(B).

In this case, Galloway plead guilty to distributing a controlled substance and to being in possession of a controlled substance with intent to distribute a controlled substance. The property in the proposed Preliminary Order of Forfeiture was found in proximity of the drugs and other drug paraphernalia. The property found with the controlled substance was involved in, used, or was intended to be used in drug transactions. Therefore, the property should be forfeited as to the defendant and the Preliminary Order of Forfeiture entered under 18 U.S.C. § 924(d)(1) with 28 U.S.C. § 2461(c); 18 U.S.C. § 924(d)(1), (2)(C), and (3)(B) with 28 U.S.C. § 2461(c); 21 U.S.C. § 853(a)(2); and 21 U.S.C. § 881(a)(11) with 28 U.S.C. § 2461(c) since the government has shown a requisite nexus between the property and the distribution of a controlled substance and possession of a controlled substance with intent to distribute.

III. CONCLUSION

For the following reasons, this Court should enter the proposed Preliminary Order of Forfeiture: (1) the government provided proper notice to Galloway with the forfeiture allegations in the Criminal Indictment, (2) as soon as practical after the guilty plea, this court should enter the Preliminary Order of Forfeiture, (3) the United States established the requisite nexus between the specific forfeited assets and the offenses to which the defendant plead guilty, and (4) Galloway does not oppose this Motion. If Galloway requests a hearing, this Court must provide it.


Dated: September 16, 2024.

JASON M. FRIERSON
United States Attorney

/s/ Misty L. Dante
MISTY L. DANTE
Assistant United States Attorney
ANDOLYN JOHNSON
Assistant United States Attorney

IT IS SO ORDERED.

DATED: September 18, 2024


Anne R. Traum
United States District Judge